

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

TORRES G. HERNANDEZ

§

VS.

§

CIVIL ACTION NO. 1:05cv632

STATE OF TEXAS

§

MEMORANDUM OPINION AND ORDER

Petitioner Torres G. Hernandez, a prisoner confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

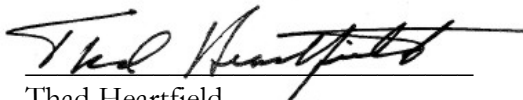
Discussion

On November 17, 2005, the petitioner moved to dismiss this case. Pursuant to Federal Rule of Civil Procedure 41, the petitioner is entitled to voluntarily dismiss the case prior to the service of any adverse parties. FED. R. CIV. P. 41(a)(1). Because the respondent has not yet been served, petitioner's motion should be granted and the case should be dismissed.

ORDER

For the foregoing reasons, petitioner's motion to dismiss (document no. 6) is hereby **GRANTED**. A Final Judgment dismissing the action without prejudice will be entered pursuant to Federal Rule of Civil Procedure 41(a)(1).

SIGNED this the 22 day of November, 2005.


Thad Heartfield
United States District Judge